



PUBLIC NOTICE

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MEDIA BUREAU ACTION

MEDIA BUREAU SEEKS COMMENT ON TIVO INC.'S PETITION FOR WAIVER OF CERTAIN "CABLE READY" REQUIREMENTS

MB Docket No. 11-105

Comment Date: April 8, 2013

Reply Comment Date: April 18, 2013

TiVo Inc. ("TiVo") has filed a petition requesting that the Commission waive certain TV receiver and "Cable Ready" certification, marketing, and labeling rules so TiVo can sell all-digital video recording products without analog tuners.¹ TiVo's products are CableCARD-enabled digital video recorders, designed specifically for use with all-digital cable service, and in the case of one model, with digital broadcasting as well.² TiVo seeks waiver of two of the Commission's rules that require analog tuners or consumer information about analog tuners: (1) Section 15.117(b), which states that all "TV broadcast receivers shall be capable of adequately receiving all channels allocated by the Commission to the television broadcast service;" and (2) Section 15.118(b), which requires cable-ready consumer electronics equipment to be capable of receiving analog NTSC³ channels 1 through 125.⁴ Section 15.117(b) is part of the TV broadcast receiver rules while Section 15.118(b) is a cable-ready consumer electronics rule.

¹ TiVo Petition at 1 (filed Feb. 4, 2013). TiVo received a similar waiver for its Premiere Elite model of set-top box on September 7, 2011. *TiVo, Inc. Request for Waiver of Sections 15.118(b), 15.123(b)(1), and 15.123(c) of the Commission's Rules*, 26 FCC Rcd 12743 (MB 2011). TiVo's instant request would apply to "the next generation of TiVo's all-digital 'Premiere' line" of its set-top boxes. TiVo Petition at 1.

² TiVo Petition at 2.

³ NTSC, the National Television System Committee broadcasting standard, is the analog television system used by analog cable systems and certain low-power, Class A, and translator over-the-air stations.

⁴ See 47 C.F.R. §§ 15.117(b), 15.118(b). In its petition, TiVo also seeks waiver of (1) Section 15.123(b)(1), which requires all unidirectional digital cable products to be capable of tuning NTSC channels transmitted in the clear; (2) Section 15.123(c), which outlines tests and standards that unidirectional digital cable products must satisfy before going to market; and (3) Section 15.123(d), which requires manufacturers and importers of unidirectional digital cable products to inform consumers that the device is "capable of receiving analog basic . . . cable television programming." TiVo Petition at 1 (citing 47 C.F.R. §§ 15.123(b)(1), 15.123(c), 15.123(d)). As TiVo states in its petition, the D.C. Circuit recently vacated the Order that adopted Section 15.123. TiVo Petition at 2, n.4 (citing *EchoStar Satellite, L.L.C. v. FCC*, 704 F.3d 992 (D.C. Cir 2013)). The Court issued the mandate in that case on March 13, 2013. Because the Court vacated Section 15.123, we consider that portion of TiVo's request moot, and seek comment only on TiVo's request for waiver of Sections 15.117(b) and 15.118(b) of the Commission's rules.

The Commission has required that TV receivers include analog tuners since the beginning of the broadcast television service.⁵ It adopted the cable-ready receiver rule to ensure that devices are capable of receiving all one-way cable services without operator-provided equipment.⁶ TiVo claims that these requirements as applied to its set-top boxes hinder innovation, increase costs to customers and serve as an unnecessary barrier to the market for all-digital video recording devices.⁷ If granted the requested waiver, TiVo commits, as it did in its 2011 waiver request, to educate consumers about the functions of its set-top boxes to ensure that consumers are not confused about the boxes' capabilities.⁸ We seek comment on TiVo's request for waiver of Sections 15.117(b) and 15.118(b) with respect to its set-top boxes.⁹

This proceeding will be treated as "permit but disclose" for purposes of the Commission's *ex parte* rules. See 47 C.F.R. § 1.1200, 1.1206. As a result of the permit-but-disclose status of this proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission's rules applicable to non-restricted proceedings.¹⁰

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries

⁵ See *Revision of Part 15 of the Rules regarding the operation of radio frequency devices without an individual license*, 4 FCC Rcd 3493, 3517, ¶ 139; see also Office of Engineering and Technology Laboratory Division Knowledge Database (available at <https://apps.fcc.gov/oetcf/kdb/forms/FTSSearchResultPage.cfm?switch=P&id=42863>), Publication Number 218634 (rel. Dec. 17, 2009) (confirming Section 15.117(b)'s dual ATSC/NTSC tuner requirement).

⁶ *Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992: Compatibility Between Cable Systems and Consumer Electronics Equipment*, 9 FCC Rcd 1981, 1995-1997, ¶¶ 78-90 (1994).

⁷ TiVo Petition at 5-11.

⁸ TiVo Petition at 11-13.

⁹ A copy of TiVo's Petition may be obtained from MB Docket No. 11-105 in the Commission's Electronic Comment Filing System (ECFS).

¹⁰ 47 C.F.R. § 1.1206.

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Documents in **MB Docket No. 11-105** are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th St., S.W., Room CYA257, Washington, DC 20554, telephone (202) 418-0270. They may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., telephone (202) 488-5300, facsimile (202) 488-5563, or via email at fcc@bcpiweb.com.

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